

AN ACT

ENTITLED, An Act to revise certain provisions regarding how long certain unsubstantiated reports of child abuse and neglect may be maintained.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 26-8A-11 be amended to read as follows:

26-8A-11. Within thirty days after notice of a substantiated investigation by the Department of Social Services, a subject of a report of abuse or neglect may request the department to amend, expunge identifying information from, or remove the record of the report from the register. The request shall be in writing and directed to the person designated by the department in the notice. If the department refuses to do so or does not act within thirty days after receipt of the written request, the subject may request an administrative hearing within thirty days to determine whether the record of the report should be amended, expunged, or removed on the grounds that it is inaccurate or it is being maintained in a manner inconsistent with this chapter. However, if there has been a court finding of child abuse or neglect, the report's accuracy is conclusively presumed and the subject has no right to an administrative hearing on the ground of inaccuracy. The hearing shall be held within a reasonable time after the subject's request and at a reasonable place and hour. The appropriate local office of the Department of Social Services shall be given notice of the hearing. In the hearing, the burden of proving the accuracy and consistency of the record is on the department. The hearing examiner may order the amendment, expunction, or removal of the record to make it accurate and consistent with this chapter. However, under no circumstances, may the hearing examiner order or may the department carry out any amendment, expunction, or removal of any portion of the record that proves, affirms, corroborates, or supports the innocence of the subject of the report without the express written authority of the subject. The decision shall be made in writing within ninety days after the date of receipt of the request for a hearing and shall state the reasons upon which it is based. Decisions of the department under this section are administrative decisions subject to judicial review

under chapter 1-26. In any case where there has been no substantiated report of child abuse and neglect, the department may not maintain a record or other information of unsubstantiated child abuse and neglect for longer than three years if there has been no further report within that three-year period.

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I certify that the attached Act
originated in the

SENATE as Bill No. 171

Secretary of the Senate
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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 171
File No. _____
Chapter No. _____

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Received at this Executive Office
this ____ day of _____ ,

19__ at ____ M.

By _____
for the Governor
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The attached Act is hereby
approved this _____ day of
_____, A.D., 19__

Governor
=====

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 19__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State